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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/509,684   | 07/21/2006  | Pieter Matthijse     | 9500.049            | 3884             |
| 21176 7590 09/02/2009<br>SUMMA, ADDITON & ASHE, P.A.<br>11610 NORTH COMMUNITY HOUSE ROAD<br>SUITE 200<br>CHARLOTTE, NC 28277 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| CHIEM, DINH D  |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2883   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/509,684

**Applicant(s)**

MATTHIJSSE ET AL.

**Examiner**

ERIN D. CHIEM

**Art Unit**

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13-15, 17, 18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13, 14 and 20 is/are allowed.
- 6) ☒ Claim(s) 15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

In careful reconsideration of claims 15, 17-18, the examiner find these claims to be anticipated by the prior art of Kilkuchi and Sawamura as cited below. The breadth of claims 15, and 17-18 are too broad since these claims merely recites a single characteristic of a fiber and further lacks any further narrowing structural limitation. In others, claims 15 and 17-18 recites a fiber having at least a clad and a core with a  $\Delta n$  of greater than 3% and an  $\alpha$  greater than  $4.0 \times 10^{-6} \text{ K}^{-1}$ . The examiner recognizes the novelty of the method steps within the instant application, however, the scope of the device claims are so broad that *any* fiber having this singular characteristic would anticipate claims 15, and 17-18. Therefore, the examiner respectfully withdraws the allowable status of claims 15, and 17-18.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Kilkuchi et al. (US 4,557,566). Kilkuchi discloses in Figs. 4A and 4B an optical fiber having a core  $n_i = 1.6$  and  $n_d = 1.5$  which meets the limitation of  $\Delta n > 3\%$ .

Claim 17-18 is rejected under 35 U.S.C. 102(b) as being anticipated by Sawamura et al. (US 4,264,131). Sawamura teaches an optical fiber characterized in that  $\alpha$  is greater than  $4.0 \times 10^{-6} \text{ K}^{-1}$  as shown in the table on column 6, lines 45-50.

***Allowable Subject Matter***

Claims 1-11, 13-14, and 20 are allowed.

Applicant's argument made on March 26, 2009 is persuasive. The prior art of record does not teach the collapse of the hollow substrate tube, but disintegrates the tube, as argued by the applicant.

Thus, claims 2-11, 13-14 and 20 are allowed by virtue of their dependency on claim 1.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIN D. CHIEM whose telephone number is (571)272-3102. The examiner can normally be reached on Monday - Thursday 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erin D Chiem/

Patent Examiner, Art Unit 2883

/Frank G Font/

Supervisory Patent Examiner, Art Unit 2883